

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 515

Introduced by Stuthman, 22

Read first time January 17, 2007

Committee: Agriculture

A BILL

1 FOR AN ACT relating to counties; to amend section 23-114.01,
2 Revised Statutes Cumulative Supplement, 2006; to change
3 county planning commission's provisions relating to
4 livestock operations; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-114.01, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 23-114.01 (1) In order to avail itself of the powers
4 conferred by section 23-114, the county board shall appoint a
5 planning commission to be known as the county planning commission.
6 The members of the commission shall be residents of the county
7 to be planned and shall be appointed with due consideration to
8 geographical and population factors. Since the primary focus of
9 concern and control in county planning and land-use regulatory
10 programs is the unincorporated area, a majority of the members
11 of the commission shall be residents of unincorporated areas,
12 except that this requirement shall not apply to joint planning
13 commissions. Members of the commission shall hold no county or
14 municipal office, except that a member may also be a member of
15 a city, village, or other type of planning commission. The term
16 of each member shall be three years, except that approximately
17 one-third of the members of the first commission shall serve for
18 terms of one year, one-third for terms of two years, and one-third
19 for terms of three years. All members shall hold office until their
20 successors are appointed. Members of the commission may be removed
21 by a majority vote of the county board for inefficiency, neglect of
22 duty, or malfeasance in office or other good and sufficient cause
23 upon written charges being filed with the county board and after
24 a public hearing has been held regarding such charges. Vacancies
25 occurring otherwise than through the expiration of terms shall

1 be filled for the unexpired terms by individuals appointed by
2 the county board. Members of the commission shall be compensated
3 for their actual and necessary expenses incurred in connection
4 with their duties in an amount to be fixed by the county board.
5 Reimbursement for mileage shall be made at the rate provided in
6 section 81-1176. Each county board may provide a per diem payment
7 for members of the commission of not to exceed fifteen dollars for
8 each day that each such member attends meetings of the commission
9 or is engaged in matters concerning the commission, but no member
10 shall receive more than one thousand dollars in any one year.
11 Such per diem payments shall be in addition to and separate from
12 compensation for expenses.

13 (2) The commission: (a) Shall prepare and adopt as
14 its policy statement a comprehensive development plan and such
15 implemental means as a capital improvement program, subdivision
16 regulations, building codes, and a zoning resolution; (b) shall
17 consult with and advise public officials and agencies, public
18 utilities, civic organizations, educational institutions, and
19 citizens relating to the promulgation of implemental programs; (c)
20 may delegate authority to any of the groups named in subdivision
21 (b) of this subsection to conduct studies and make surveys for the
22 commission; and (d) shall make preliminary reports on its findings
23 and hold public hearings before submitting its final reports. The
24 county board shall not hold its public meetings or take action on
25 matters relating to the comprehensive development plan, capital

1 improvements, building codes, subdivision development, or zoning
2 until it has received the recommendations of the commission.

3 (3) The commission may, with the consent of the governing
4 body, in its own name: Make and enter into contracts with public
5 or private bodies; receive contributions, bequests, gifts, or
6 grants of funds from public or private sources; expend the
7 funds appropriated to it by the county board; employ agents
8 and employees; and acquire, hold, and dispose of property. The
9 commission may, on its own authority: Make arrangements consistent
10 with its program; conduct or sponsor special studies or planning
11 work for any public body or appropriate agency; receive grants,
12 remuneration, or reimbursement for such studies or work; and at its
13 public hearings, summon witnesses, administer oaths, and compel the
14 giving of testimony.

15 ~~(4) In~~ (4) (a) Except as provided in subdivision (b) of
16 this subsection, in all counties in the state, the county planning
17 commission may grant conditional uses or special exceptions to
18 property owners for the use of their property if the county
19 board of commissioners or supervisors has officially and ~~generally~~
20 authorized the commission to exercise such powers and has
21 approved the standards and procedures the commission adopted for
22 equitably and judiciously granting such conditional uses or special
23 exceptions. The granting of a conditional use permit or special
24 exception shall only allow property owners to put their property to
25 a special use if it is among those uses specifically identified in

1 the county zoning regulations as classifications of uses which may
2 require special conditions or requirements to be met by the owners
3 before a use permit or building permit is authorized.

4 (b) The applicant for a conditional use permit or
5 special exception for a livestock operation shall be specifically
6 identified in the county zoning regulations as a classification
7 of use which may require special conditions or requirements to
8 be met within an area of a county zoned for agricultural use.
9 The county planning commission shall make recommendations to the
10 county board of commissioners or supervisors as to whether the
11 application qualifies under the standards adopted by the commission
12 and approved by the county board of commissioners or supervisors
13 for livestock operations. The planning commission may also make
14 a recommendation as to the special conditions or requirements
15 to be imposed. The county board of commissioners or supervisors
16 shall approve or deny the application and issue a determination
17 of any may request a determination of the special conditions or
18 requirements to be imposed by the county planning commission or
19 by the county board of commissioners or supervisors if the board
20 has not authorized the commission to exercise such authority. Upon
21 request the commission or board shall issue such determination of
22 the special conditions or requirements to be imposed in a timely
23 manner. Such special conditions or requirements to be imposed may
24 include, but are not limited to, the submission of information
25 that may be separately provided to state or federal agencies in

1 applying to obtain the applicable state and federal permits. The
2 commission or the board may request and review, prior to making
3 a recommendation or determination of the special conditions or
4 requirements to be imposed, reasonable information relevant to the
5 conditional use or special exception. If a determination of the
6 special conditions or requirements to be imposed has been made,
7 final permit approval may be withheld subject only to a final
8 review by the ~~commission~~ ~~or~~ county board to determine whether
9 there is a substantial change in the applicant's proposed use
10 of the property upon which the determination was based and that
11 the applicant has met, or will meet, the special conditions
12 or requirements imposed in the determination. For purposes of
13 this section, substantial change shall include any significant
14 alteration in the original application including a significant
15 change in the design or location of buildings or facilities, in
16 waste disposal methods or facilities, or in capacity.

17 (5) The power to grant conditional uses or special
18 exceptions as set forth in subsection (4) of this section shall be
19 the ~~exclusive~~ authority of the commission, except that the county
20 board of commissioners or supervisors may choose to retain for
21 itself the power to grant conditional uses or special exceptions
22 for ~~these~~ additional classifications of uses specified in the
23 county zoning regulations. The county board of commissioners or
24 supervisors may exercise such power if it has formally adopted
25 standards and procedures for granting such conditional uses or

1 special exceptions in a manner that is equitable and which will
2 promote the public interest. An appeal of a decision by the county
3 planning commission or county board of commissioners or supervisors
4 regarding a conditional use or special exception shall be made to
5 the district court.

6 (6) Whenever a county planning commission or county board
7 is authorized to grant conditional uses or special exceptions
8 pursuant to subsection (4) or (5) of this section, the planning
9 commission or county board shall, with its decision to grant
10 or deny a conditional use permit or special exception, issue
11 a statement of factual findings arising from the record of
12 proceedings that support the granting or denial of the conditional
13 use permit or special exception. If a county planning commission's
14 role is advisory to the county board, the county planning
15 commission shall submit such statement with its recommendation
16 to the county board as to whether to approve or deny a conditional
17 use permit or special exception.

18 Sec. 2. Original section 23-114.01, Revised Statutes
19 Cumulative Supplement, 2006, is repealed.